

BEFORE THE
Federal Communications Commission
WASHINGTON, D.C.

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| In the Matter of |) | |
| |) | |
| |) | GN Docket No. 10-127 |
| Framework for Broadband Internet Service |) | |
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COMMENTS OF JOHN J. HAMM III

John Hamm (“I”) hereby responds to the Notice of Inquiry (“NOI”)¹ seeking comment on the appropriate legal framework for the Federal Communications Commission (“Commission” or “FCC”) to fulfill its obligations under the Communications Act of 1934 as amended (the “Act”), with respect to broadband Internet service.

The FCC seeks to indentify the optimum legal and regulatory framework to ensure adequate government oversight over the Internet. I believe that the most functional method to accomplish the legal and regulatory goals is the so-called “Third Way.” Utilizing the framework as suggested in the “Third Way” would subject only the data transmission portion of broadband Internet to regulation under the Communications Act. The “Third Way” would leave content, applications and services unregulated by the Commission thus ensuring the Internet remains an open and free forum for public activity.

¹ *In the Matter of Framework for Broadband Internet Service*, GN Docket 10-127, Notice of Inquiry, FCC 10-114 (June 17, 2010) (“NOI”)

Since the “Third Way” framework (as described in the NOI) would apply only to the transmission component of Internet service it is the most effective way to allow Commission oversight in light of the *Comcast* decision impact on the Commission’s ancillary authority over Internet regulation. Although this ancillary authority was originally recognized by the U.S. Supreme Court (*United States v. Sw. Cable Co.*, 392 U.S. 157 (1968)), it is no longer prudent to rely solely on said authority in the wake of the *Comcast* decision.

I additionally reject proposals that the Commission should go beyond the regulatory framework that would be established in the “Third Way.” Applying the full scope of Title II would result in a prohibitive level of government oversight on the Internet and would seriously undermine the freedom of association and rights to expression presently afforded to all users of the Internet. The Title II oversight is appropriate for wireline and wireless telephone, but is inconsistent with the deregulated nature of the Internet and the freedom to exchange information in a free and dynamic manner.

Based on the aforementioned reasons, the Commission should adopt the “Third Way” and re-establish the regulatory controls previously implemented under ancillary authority in a manner that is equitable for both individuals and corporations alike.

Respectfully submitted,

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